Alberta Mental Health Patient
ADVOCATE OFFICE

# 2005 ANNUAL REPORT

Alberta Mental Health Patient
ADVOCATE OFFICE

Rm. 1202, Centre West Building | 10035 - 108 Street | Edmonton, Alberta, Canada T5J 3E1

The Honourable Iris Evans
Minister of Health and Wellness
Room 204, Legislature Building
10800 - 97 Avenue
Edmonton, AB
T5K 2B6

Dear Minister Evans:

I am pleased to present you with the Annual Report of the Mental Health Patient Advocate summarizing activities for the calendar year 2005.

The report is submitted in accordance with the provisions of Section 47 (1) of the *Mental Health Act* for your presentation to the Legislative Assembly.

Respectfully submitted,

Jay McPhail
Mental Health Patient Advocate

Tel 780.422.1812 | Fax 780.422.0695

ALBERTA
HEALTH AND WELLNESS

*Office of the Minister*

The Honourable Kenneth R. Kowalski
Office of the Speaker
Room 325 Legislature Building
10800 - 97 Avenue
Edmonton, Alberta
T5K 2B6

Dear Mr. Speaker:

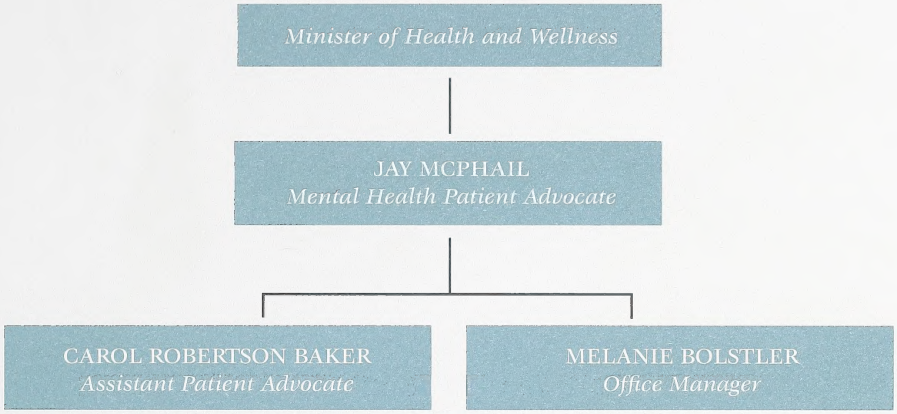
For your reference, I am submitting the Annual Report of the Mental Health Patient Advocate, Jay McPhail, which summarizes the activities of the office for the calendar year 2005.

Sincerely,

Iris Evans
Minister of Health and Wellness
MLA Sherwood Park

Legislature Building, Edmonton, Alberta, Canada T5K 2B6 Telephone 780/427-3665 Fax 780/415-0961

# ALBERTA MENTAL HEALTH PATIENT ADVOCATE OFFICE




## MISSION STATEMENT

**To serve as a resource for psychiatric patients by:**

- Assisting formal (certified) patients involuntarily detained in facilities designated under the *Mental Health Act* to understand and exercise their legal rights;
- Investigating and facilitating redress for concerns and complaints relating to formal patients;
- Assessing and recommending revision to facility procedures for:
  - Admitting persons detained under the *Mental Health Act;*
  - Informing formal patients of their rights;
  - Providing information as required by the Act to guardians, relatives or designates of formal patients.
- Advocating for amendments to mental health and other protective legislation as these relate to formal patients;
- Offering a consumer oriented source of information for psychiatric patients and others acting on their behalf;
- Supporting client perspectives in the development and implementation of mental health policies and procedures;
- Promoting public, professional and consumer awareness of rights related to issues in mental health.

# CONTENTS

# FUNCTIONAL OVERVIEW

## THE ROLE OF THE PATIENT ADVOCATE OFFICE

Established under Part Six of the Alberta *Mental Health Act* (1990), the Mental Health Patient Advocate Office serves as a resource for the psychiatric community assisting patients in designated mental health facilities to understand and exercise their rights. The office is also responsible for investigating concerns or complaints relating to certified patients involuntarily detained under the Act. Anyone may contact the office regarding inquiries, concerns or complaints on behalf of an individual who is a current or former formal patient.

Formal patients are persons who are or have been involuntarily detained in designated mental health facilities under two Admission or two Renewal Certificates as prescribed in the *Mental Health Act*. Sixteen facilities throughout the province are currently designated as psychiatric facilities able to admit and detain formal patients; a listing of these is provided in the Appendices. If it is uncertain whether an individual who is the subject of concern has been formally certified, the Patient Advocate Office may be contacted directly and will ascertain the legal status of the patient.

The Patient Advocate Office strives to strike the appropriate and often delicate balance required to resolve problems presented by or on behalf of patients. If an issue presented is jurisdictional, the office will make all inquiries and investigations necessary to resolve the matter and has authority to engage the services of lawyers, psychiatrists or other persons to assist in the process when deemed appropriate. Should the office not have jurisdiction to pursue the matter, general advice may be provided by way of informal assistance and/or a referral made to the most relevant resource having authority to deal with the problem. The office has no decision-making authority that is binding on third parties and is not empowered to conduct systemic investigations. The Advocate does monitor statutory and regulatory changes relating to psychiatric services, however, and makes recommendations to appropriate authorities regarding systemic problems, administrative policies and mental health legislation. Systemic and rights information pertaining to psychiatric patients and services are offered as well to the general public. In addition, office representatives routinely attend fatality inquiries involving formal patients and make regular site visits to designated hospitals throughout the province on both a proactive basis and in response to individual or collective complaints.

All contacts and investigations are conducted in confidence, and the Patient Advocate Office will not disclose information pertaining to any aspect of investigative activity except as required by law or by the performance of its duties under the *Mental Health Act* and Patient Advocate Regulation.

The Patient Advocate reports directly to the Minister of Health & Wellness, who is required to lay a copy of the Advocate's Annual Report before the Legislative Assembly at times prescribed vin the Act.

The Patient Advocate Office serves the entire province from its central location in downtown Edmonton. Telephone inquiries may be made to the Edmonton office at **(780) 422-1812**; calls from locations outside the Edmonton area may be made free of long distance charges through the Alberta Government Rite Line **(310-0000-422-1812)**.

Written contacts should contain as much detailed information as possible, be marked 'confidential' and mailed directly to:

**Alberta Mental Health**
**Patient Advocate Office**
**Room 1202**
**Centre West Building**
**10035 - 108 Street**
**Edmonton, Alberta**
**Canada T5J 3E1**

# ADVOCATE COMMENTS

The Mental Health Patient Advocate Office has been providing legal rights information and responding to complaints relating to formal patients in designated facilities in Alberta for 15 years. The Mental Health Patient Advocate Office was legislated in 1990 by the Alberta Government as an investigative body that ensures formal patients legal rights are protected and has the power to act on a complaint relating to a formal patient. In 2004, the administrative functions for this office were transferred to the Alberta Mental Health Board. Since this transfer, the Advocate has responded to concerns voiced by formal patients, family members, personnel within regional health authorities and the public at large. Some concerns expressed related to a change in the roles and functions of the Mental Health Patient Advocate Office; its independence and impartiality and whether the Mental Health Patient Advocate Office is now reporting to a regional health authority. I will attempt to address these concerns.

## LEGISLATED ROLES AND FUNCTIONS

I must stress the roles and functions of the Mental Health Patient Advocate Office remain the same. The Mental Health Patient Advocate Office is legislated to assist formal patients to understand and exercise their legal rights and has the authority to investigate a complaint from or relating to formal patients. The Patient Advocate also has the power to initiate an investigation without a complaint. "The Patient Advocate may, without receiving a complaint, initiate and conduct an investigation into (a) any procedure of a facility relating to the admission of a person detained in the facility pursuant to the Act, and (b) any procedure of a facility (i) for informing a formal patient of his rights, or (ii) for providing information as required by the Act to guardians, nearest relatives or designates of a formal patient." Changes to the roles and functions of the Mental Health Patient Advocate Office therefore cannot be altered without a legislated change to the *Mental Health Act* and to the Patient Advocate Regulation.

## INDEPENDENCE/IMPARTIALITY OF THE MENTAL HEALTH PATIENT ADVOCATE OFFICE

The independence of the Patient Advocate is supported by its legislated structure. The "Lieutenant Governor in Council shall appoint a Mental Health Patient Advocate, who shall investigate complaints from or relating to formal patients and exercise any other powers and perform any other duties that are prescribed in the regulations. The Lieutenant Governor in Council may make regulations (a) respecting the powers and duties of the Patient Advocate; (b) requiring boards to make available any information referred to in the regulations for the purpose of an investigation by the Patient Advocate."

The principle of independence requires that the Patient Advocate Office be able to conduct its investigations and reach its conclusions based on the merits of the case and in an environment that is free from government, ministry or regional health authority influence and pressure.

The principle of impartiality denotes the absence of bias actual or perceived. The Mental Health Patient Advocate operates at arm's length from government. This operational structure recognizes the well-accepted principles that investigations and subsequent recommendations of the Patient Advocate must be seen by patients, their families, regional health authorities and the public at large to be made independently and impartially.

Although operating at arm's length with respect to decision-making, the Patient Advocate is accountable to the government and ultimately to the public through the Minister of Health and Wellness. The Patient Advocate reports directly to the Minister of Health and Wellness by submitting an annual report summarizing her year's activities.

In response to these concerns, I forwarded a proposal to the Minister of Health and Wellness suggesting that the Mental Health Patient Advocate Office be established similar to that

of the Ombudsman's Office. The Ombudsman's Act ensures the Ombudsman has independence from the government of the day ... which is crucial in order to provide a neutral and impartial review of complaints. Not only will this action support the universally recognized principles of independence and impartiality needed for an investigative body, it will also alleviate the perception that the Mental Health Patient Advocate Office is accountable to a regional health authority.

## SUMMARY OF ACTIVITIES

Over the past year, Ms. Carol Robertson Baker, the Assistant Patient Advocate was able to visit 14 out of 16 designated facilities. Scheduling problems prevented visits in two facilities. However, arrangements were made for this to occur in the next year. The pro-active visits provided the Advocate Office with the opportunity to meet with formal patients at their request and provide information to help them understand and exercise their legal rights. This was also an opportunity to discuss the legislated roles and functions not only with formal patients but also with nursing staff, physicians, hospital and regional personnel.

## FORMAL INVESTIGATIONS

The office has recorded a significant rise in the number of calls received from formal patients. I believe that this increase is directly related to the Mental Health Patient Advocate Office's ability to augment its profile through a more pro-active approach. The outcome of the growth in contacts also has led to an increase in formal investigations.

Part 7 of the Patient Advocate Regulation states: "(1) On completion of an investigation, the Patient Advocate shall prepare and send to the board a copy of the report of the investigation. (2) A report that contains recommendations must state the reasons for the recommendations. (3) If a report is sent to the board under subsection (1) and within a reasonable time after the report is sent to the board the Patient Advocate is of the opinion that the board has not taken appropriate action on any recommendation, the Patient Advocate shall send a copy of the report and the board's response, if any, to the Minister."

I am pleased to report that all regional health authorities have complied with the recommendations forwarded. I would like to thank each regional health authority for its diligence in responding positively to the Patient Advocate's recommendation, for their continued effort to ensure that there is compliance with the *Mental Health Act*, for providing the formal patients with legal rights information and for encouraging the formal patients to call the Mental Health Patient Advocate Office for assistance.

## LEGAL REQUIREMENTS

As noted in previous years, confusion regarding the authority of a Form 11 is an ongoing concern for many designated facilities. The Mental Health Patient Advocate Office became aware that a few physicians did not sign the required Form 11 (which is issued when formal patients are deemed to be mentally incompetent to make their own treatment decisions) if the formal patient was subject to a Guardianship Order in which the guardian was granted "the authority to consent to any health care that is in the best interest of the dependent adult". The Patient Advocate sought and obtained a legal opinion regarding this practice. The legal opinion noted that the *Mental Health Act* provides that if a physician is of the opinion that a formal patient is not mentally competent to make treatment decisions, the prescribed form (Form 11) shall be completed. The use of the word "shall" in legislation is mandatory. There is no exception expressed in the case of a formal patient subject to a Guardianship Order. It is further noted that the lack of a Form 11 may result in a potential denial of a formal patient's rights to be heard before the Review Panel. There is also an actual denial of the patient's rights to be informed of the availability of an appeal process. Clearly, the better practice is to issue a Form 11. In order to resolve this matter within the regional health authority, I met with a regional psychiatrist and with his assistance; the matter was brought to the attention of all physicians. I received assurance that the matter would be positively and promptly resolved.

Another practice noticed was that physicians will frequently cancel admission certificates if the formal patient was subject to a Guardianship Order. The physicians believed that the legal guardian could detain patients against their will if the guardian had the authority to decide where the dependant adult was to live and also had the authority to consent for treatment. Again, a legal opinion was sought. It was noted that the cancellation of admission certificates clearly deprived the formal patients of their ability to be heard by the Review Panel. This is a concern since the patient may have a legitimate objection to his or her certification. It was further noted that if a Compulsory Care Certificate was issued under the *Dependent Adults Act* then the patient can be detained without admission certificates issued

under the *Mental Health Act.* In order to resolve this matter, the Advocate met again with the regional psychiatrist. I was assured that this was not considered as an acceptable practice and the matter would be resolved by a discussion with regional physicians regarding the authority of a legally appointed guardian and the authority to detain individuals under the *Mental Health Act.*

The Patient Advocate was alerted that a few physicians allowed admission certificates to expire before signing the renewal certificates. This meant that the patients could be detained without legal authority. The matter was promptly resolved by discussing the appropriate provision of the *Mental Health Act* with both the physician and the program manager. Another concern which was resolved was the delay in sending the application to appear before the Review Panel. The delay subsisted over two weeks and was remedied after our office alerted the unit. Changes were made to hospital procedure to ensure the patients' rights are respected.

It is important to remember that the forms required by the *Mental Health Act* are legal documents with major implications for patients and families.

## GENERAL COMPLAINTS

A common complaint received from formal patients is that they are led to believe that if they agree to revoke their application to the Review Panel, the physicians will cancel their certificates and their stay in hospital will be shortened. Some patients complained that they were not given reasonable time to retain legal counsel to assist at their appearance before the Review Panel. One patient claimed to receive 24 hours notice and several others stated they had received only 2 days notice. These matters were resolved by discussions with the program managers.

## RESOURCE CALLS

This category refers to calls from the public at large. The calls are usually not directly related to concerns about formal patients but frequently include queries about the authority of the Mental Health Patient Advocate Office. Many of the callers are seeking remedies for legal matters, housing, funding, community mental health services and complaints about poor quality of care in nursing homes and mental health group homes and hospitals. While these calls are outside the legislated mandate of the office, we strive to provide the appropriate redirection. Thus many referrals are made to Legal Aid services, patient representatives in regional health authorities, PPIC, Health Facilities Review Committee, the Ombudsman's Office and other community agencies.

## PROMOTIONAL MATERIAL

It was also noted that several facilities were not displaying the Mental Health Patient Advocate Office's posters nor were they providing the patients with the MHPAO brochure entitled "Turn to Us for Help". Resolution was obtained by forwarding a letter as a reminder that all formal patients must be given the information and the opportunity to call the Mental Health Patient Advocate Office. Upon request from facilities, we distributed 4,140 "Turn to us for help" brochures" in the calendar year 2005.

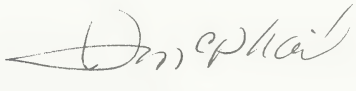
My report is only but a brief summary of the Mental Health Patient Advocate Office's activities and overall functioning. We are a small office. Ms. Carol Robertson Baker is the Assistant Patient Advocate and the only investigator. Ms. Melanie Bolstler is the Executive Assistant for this office. Despite our staffing constraints, it is the dedication of Ms. Carol Robertson Baker and Ms. Melanie Bolstler to provide an excellent service to the formal patients that has allowed the Patient Advocate Office to respond:

- To complaints in a timely manner, with accurate information;
- Conduct investigations without bias; and
- Ensure that the legal rights of formal patients are recognized, respected and protected.

There is no doubt that the Mental Health Patient Advocate Office plays a vital role for the formal patients within the health system in our province. We look forward to the next year with anticipation regarding an updated data system that will provide value added feedback and information to reflect the number of formal patients admitted in designated facilities and their length of stay. This information will also assist the Patient Advocate in assessing the staffing needs for the office in order to enhance the existing service for formal patients.

## CONCLUSION

In closing, I would like to thank all patients and those acting on their behalf, staff and physicians within the regional health authorities, government departments, community agencies and the public at large who have expressed their appreciation and support for the Mental Health Patient Advocate Office.



Jay McPhail RPN, BA
*Patient Advocate*

# ACTIVITY SUMMARIES

## A. GENERAL

Overall activities of the Mental Health Patient Advocate Office for the 2005 calendar year are summarized in Table I. The data reflects the combination of both resource services and case file activities undertaken.

### TABLE I – 2005 Calendar Year

**Resource Services**

| | |
|---|---|
| Issues | 724 |
| Contacts | 718 |

**Case Files**

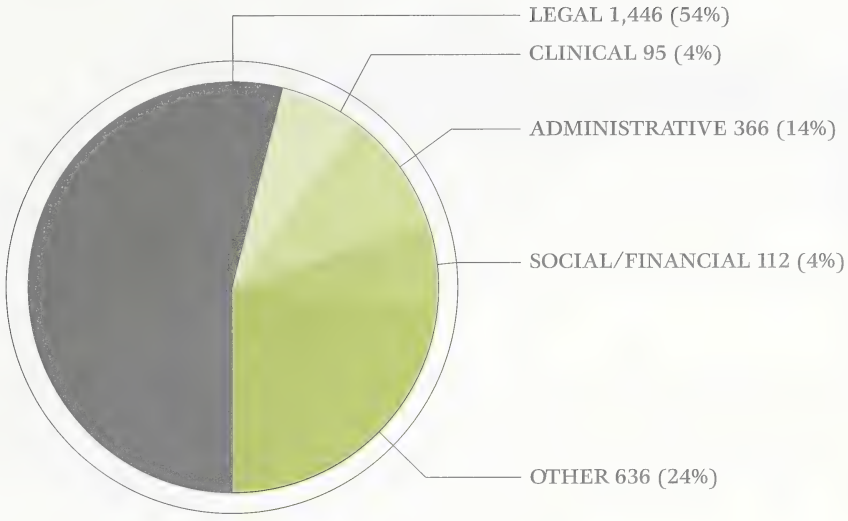
| | |
|---|---|
| New Files | 418 |
| Issues | 1,931 |
| Contacts | 2,495 |

**Overall Activity**

| | |
|---|---|
| Total Issues | 2,655 |
| Total Contacts | 3,213 |

A total of 3,213 personal, telephone, and written contacts with Alberta citizens were handled by the Mental Health Patient Advocate Office during 2005. Overall issues were almost identical with those previously recorded and are broken down by category in Figure I. These categories are approximate since many matters can be classified in more than one way, depending on the relative emphasis involved.

FIGURE 1 – **Total Issues**



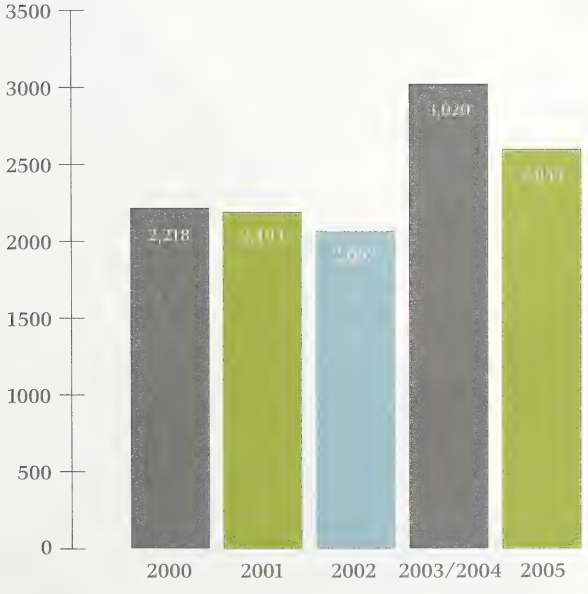
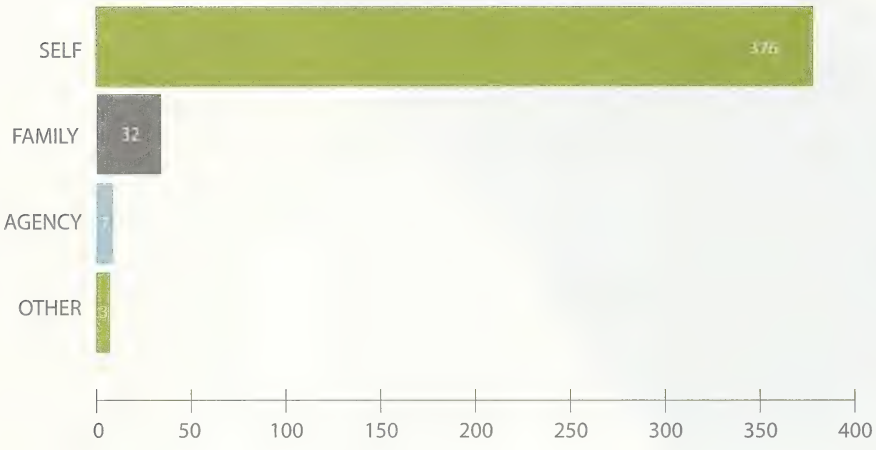




FIGURE II – **Total Issues**

Consistent with previous years, the problems presented cover a wide range of topics. Issues involving hospital privileges, treatment/ medication matters, administrative policy, and social/financial problems continue to comprise the common concerns. Most complaints, however, were legal in nature and reflected an ongoing emphasis on the involuntary apprehension, detention and treatment provisions of the *Mental Health Act*. Figure II simply represents the total amount of issues presented for resolution over the past year.

FIGURE III – Sources of Initial Contact




B. CASE WORK

New case files opened during 2005 totaled 418, in which the context of 1,931 independent issues were presented for resolution. The number of personal, written and telephone contacts required to resolve these collective case related concerns was 2,495. The average number of contacts required to conclude each file was about 6 although slightly higher this is consistent with the average recorded in previous years. These case files included inquiries and investigations concerning patients currently or recently residing in designated mental health facilities around the province. They also included referred investigations conducted under the *Protection for Persons in Care Act*. The following graphs and tables delineate various breakdowns of case related activities for the year; where required, the data is accompanied by appropriate definitions and interpretive comments.

Figure III describes a breakdown of initial case contacts, showing the proportions emanating from patients themselves, family members, or agencies on their behalf. Consistent with previous years, most cases were self-referred. The remaining calls came from sources such as friends, neighbors, landlords, MLAs, Members of Parliament, solicitors, other patients, or concerned citizens. The majority of initial contacts constituted telephone inquiries. A few initial case contacts were received in written form. In all cases, the patient is considered the client; third party complaints or referral agencies are subject to the strict confidentiality provisions prescribed for the office in the Patient Advocate Regulation.

## FIGURE IV – Subjects of Call

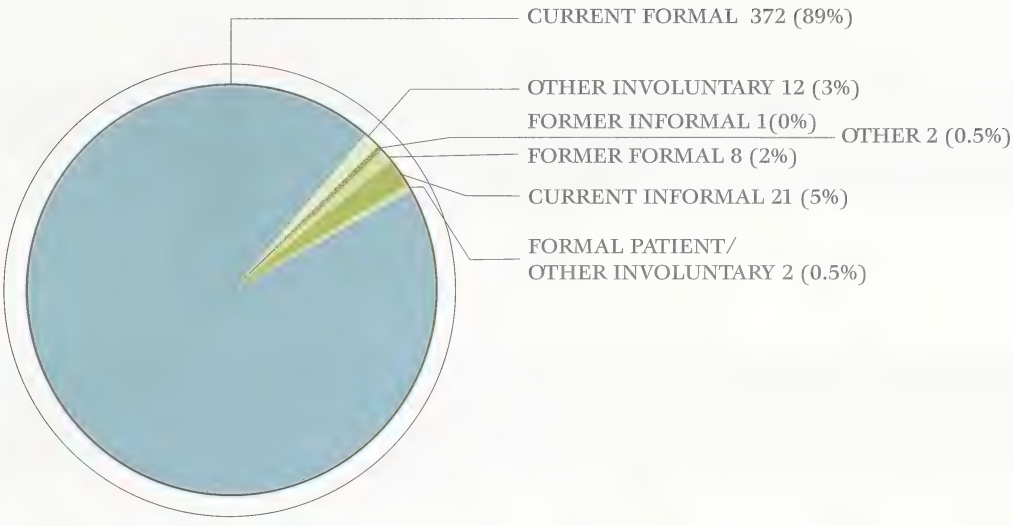



FIGURE IV describes the legal status of patients for whom case files were opened during the year. The term "other involuntary" denotes patients under compulsory detention in designated mental health facilities by way of Disposition Orders from the courts and The Forensic Alberta Review Board, Compulsory Care Orders under the *Dependent Adults Act* or single Admission Certificates pursuant to the *Mental Health Act*. The term "other" represents a catchall category for patients who do not fall into any of the other classifications. It denotes persons currently or recently in hospital whose legal status was either irrelevant to the presenting problem or undermined due to a lack of information from the complainant. More than 89 per cent of the case file requests for assistance involved currently certified patients. The remaining service requests related to voluntary patients, those involuntarily admitted under one medical certificate, or patients detained under authority other than the *Mental Health Act*. These patients remain non-jurisdictional for our office.

**TABLE II ISSUES – DISPOSITION** Period January 1, 2005 – December 31, 2005

| Disposition | Jurisdictional | Non-jurisdictional | Total number | % |
|---|---|---|---|---|
| R | 1,829 | 67 | 1,896 | 98.2 |
| U | 1 | 0 | 1 | 0.05 |
| D | 0 | 4 | 4 | 0.20 |
| D&R | 0 | 27 | 27 | 1.40 |
| NR/NA | 0 | 2 | 2 | 0.10 |
| NR/RNF | 1 | 0 | 1 | 0.05 |
| **TOTAL ISSUES** | **1,831** | **100** | **1,931** | **100** |

**TABLE II** denotes the disposition of case related issues addressed during the year 2005, illustrating outcomes independently for jurisdictional and non-jurisdictional matters. Of the 1,931 case related issues presented to the office, a total of 1,831 were jurisdictional. More than 90 per cent of all presenting problems were resolved.

LEGEND:

R – Resolved
(fully or partially; see previous note)

U – Unsubstantiated
(verification not obtained, or issue remains sufficiently undefined as to preclude pursuit)

D – Discontinued
(inquiries/investigation dropped by the office or complainant due to lack of ability/need to further pursue; this can include an inability to establish jurisdiction)

D&R – Declined and Referred
(pertains primarily to non-jurisdictional issues when information or informal assistance are inappropriate or insufficient to resolve the matter; for jurisdictional concerns, denotes either that the patient is capable of pursuing remedy via established mechanisms but has made no attempts to do so, or that ultimate resolution is beyond the scope of office authority)

NR/NA – Not Resolved
(remedy not available)

NR/RNF – Not Resolved
(recommendations not acted upon, or investigation/follow-up not yet completed)

## C. RESOURCE SERVICES

Resource services comprise both office initiated and response related activities in which the office is used as an information source for persons seeking advice on individual problems or systemic matters relating to psychiatric services. Case files are not opened in these instances since callers are not concerned with specific patients detained in designated mental health facilities. Most resource service contacts come from individual citizens, but many emanate as well from a diverse range of agencies, government departments, legal firms, professional associations, MLA offices, Members of Parliament, consumer organizations, and health or social service providers across the province. A few also come from concerned citizens, agencies, and officials in other jurisdictions. Resource service contacts totaled 718. The number of individual issues or problems presented in the context of these collective resource service contacts was 724. Other resource service activities included in-service sessions for staff and physicians in various regional hospitals as well as presentations to several psychiatric consumer support groups over the year.

## D. AGENCY CONTACTS

The Patient Advocate Office routinely deals with a wide range of individuals, offices and agencies. The following is a listing of most major sources other than individual complainants with which the office had direct contact during the year 2005.

## GOVERNMENT DEPARTMENTS AND OFFICES

Alberta Alcohol and Drug Abuse Commission

Alberta Cancer Board

Alberta Children's Services
- Child and Youth Advocate

Alberta Community Development
- Alberta Human Rights and Citizenship Commission

Alberta Seniors and Community Supports
- Protection for Persons in Care
- Office of the Public Guardian
- MLA Task Force
- Michener Centre

Alberta Health and Wellness
- Minister
- Deputy Minister
- Communications
- Finance and Corporate Services
  - Legal and Legislative Services
- Health Accountability
  - Information Management
  - Library Services
- Health Facilities Review Committee
- Health Workforce Services
- Mental Health Review Panels
  - Calgary
  - Edmonton
  - Ponoka
- Population Health
- Program Services
- Strategic Directions

Alberta Human Resources and Employment
- Library Services

Alberta Justice and Attorney General
- Chief Medical Examiner
- Communications
- Library Services
- Public Trustee

Alberta Learning

Alberta Legislative Library

Ethics Commissioner

Information and Privacy Commissioner

MLA Offices

Member of Parliament
- The Honourable Anne McLellan (Edmonton Centre)

Premier's Council on Persons with Disabilities

Provincial Legislature
- Alberta Hansard Library
- Ceremonial and Security Services

Provincial Ombudsman

Queen's Printer

## OTHER GOVERNMENT DEPARTMENTS AND OFFICES

New Brunswick Legislative Library: Fredericton

New Brunswick Ministry of Health
- Psychiatric Patient Advocate: Moncton

Ontario Ministry of Health
- Psychiatric Patient Advocate: Toronto

Facilities
- Alberta Hospital Edmonton
- Alberta Hospital Ponoka
- Claresholm Care Centre

- Foothills General Hospital: Calgary
- Grey Nuns Hospital: Edmonton
- Lethbridge Regional Hospital
- Medicine Hat Regional Hospital
- Misericordia Hospital: Edmonton
- Northern Lights Regional Health Centre: Fort McMurray
- Peter Lougheed Centre: Calgary
- Queen Elizabeth II General Hospital: Grande Prairie
- Red Deer Regional Hospital
- Rockyview General Hospital: Calgary
- Royal Alexandra Hospital: Edmonton
- University of Alberta Hospitals: Edmonton
- Southern Alberta Forensic Psychiatry Centre

### Community Agencies and Organizations

- Alberta Patient Representatives Network
- Autism Society
- Canadian Mental Health Association
    - Provincial Office
    - Regional Offices
- Catholic Social Services
- Chimo Group Home
- College of Physicians and Surgeons of Alberta
    - Advocate Office
- Loyers and Albert Company
- Miller Thomson LLP, Barristers & Solicitors, Edmonton
- Edmonton Centre for Equal Justice
- Bissell Centre
- Grande Prairie College
    - Library Services
- Grant McEwan Community College: Edmonton
- Legal Aid Society of Alberta
    - Duty Counsel
    - Provincial Office
    - Regional Offices
- McMaster University: Hamilton, Ontario
- Medicine Hat College
- Mount Royal College: Calgary
- National Defense
- National Library of Canada: Ottawa, Ontario
- Northern Alberta Brain Injury Society (NABIS)
- Regional Health Authorities
    - Alberta Mental Health Board
    - Calgary
        - Legal Services
        - Mental Health and Psychiatric Services
        - Patient Concerns
    - Capital
        - Legal Services
        - Capital Health Authority – Health Link
        - Leduc Mental Health Clinic
        - Patient Concerns
    - Chinook
    - Crossroads
    - David Thompson
    - Headwaters
    - Mistahia
    - Northern Lights
    - Palliser
- Royal Canadian Mounted Police: Fort McMurray, Alberta
- Salvation Army
- Schizophrenia Society of Alberta
    - Calgary Office

- Edmonton Office
- Unsung Heroes (Support Group)

- Slave Lake Long Term Care
- Support Network
  - Community Service Referral Line
  - Distress Line
- University of Alberta
  - Career and Placement Centre
  - Faculty of Extension
  - Faculty of Law
  - Faculty of Medicine and Dentistry
  - Faculty of Nursing
  - Health Law Institute
- University of Calgary
  - Faculty of Law
  - Faculty of Medicine
  - MacKimmie Library
- University of Lethbridge
  - Library Services
- University of New Brunswick: Fredericton
  - Gerard La Forest Law Library
  - Harriet Irving Library

Media Contacts

- Edmonton Sun
- Western Catholic Reporter

## APPENDICES

## BUDGET AND EXPENDITURES

| Fiscal year | Budget allocation | Annual expenditures | Surplus* |
|---|---|---|---|
| 1990 - 91 | 358,518 | 243,810 | 114,708 |
| 1991 - 92 | 385,485 | 262,944 | 122,541 |
| 1992 - 93 | 385,189 | 256,359 | 128,830 |
| 1993 - 94 | 322,324 | 192,819 | 129,505 |
| 1994 - 95 | 299,000 | 176,759 | 122,241 |
| 1995 - 96 | 299,000 | 193,217 | 105,783 |
| 1996 - 97 | 262,000 | 186,816 | 75,184 |
| 1997 - 98 | 267,000 | 211,758 | 55,242 |
| 1998 - 99 | 285,000 | 226,634 | 58,366 |
| 1999 - 2000 | 296,000 | 228,071 | 67,929 |
| 2000 - 2001 | 302,000 | 262,495 | 39,505 |
| 2001 - 2002 | 309,000 | 307,595 | 1,405 |
| 2002 - 2003 | 319,000 | 159,293 | 159,706 |
| 2003 - 2004 | 348,000 | 155,003 | 192,997 |
| 2004 - 2005 | 384,168 | 298,247 | 85,921 |

**Surplus returned to General Revenue*

## RIGHTS SUMMARY FOR FORMAL PATIENTS

If you are a formal (involuntary) patient under the *Mental Health Act* you have numerous rights. The Alberta Mental Health Patient Advocate Office has summarized a few of these rights for your information.

### Rights Regarding Your Detention

***You have the right*** to be informed of the reasons for your involuntary detention, and to receive copies of your Admission or Renewal Certificates.

***You have the right*** to appeal being kept in hospital against your will by applying to the Review Panel.

- The hospital will provide you with the name and address of the Review Panel Chairman, an application for review (Form 12) and any assistance you may require in making your application to the Review Panel.

You and your lawyer ***have the right*** to be present when evidence is given at the Review Panel hearing and to question any person who gives evidence.

***You have the right*** to appeal a decision of the Review Panel to not cancel your Admission or Renewal Certificates.

### Rights Regarding Your Treatment

***You have the right*** to refuse a treatment if you are mentally competent to make your own treatment decisions.

- If you object to treatment, your doctor may apply to the Review Panel. The Review Panel will review your situation, and either support your objection or support your doctor's application for a compulsory Treatment Order.

***You have the right*** to apply to the Review Panel for a hearing to appeal your Form 11/Physician's Certificate stating that you are not mentally competent to make your own treatment decisions.

***You have the right*** to appeal a Treatment Order or other written decision of the Review Panel.

### General Rights

***You have the right*** to contact and receive visits from your lawyer at any time.

- You may arrange legal representation for your Review Panel hearing if you so desire. Appeals of Review Panel decisions are made to the Court of Queen's Bench.

***You have the right*** to confidentiality for all clinical records pertaining to your care in hospital and for any communications written by you or to you. Hospital staff cannot open, read, withhold or interfere with the delivery of your correspondence.

***You have the right*** to receive visitors during visiting hours fixed by the hospital unless your doctor thinks that visitors would be harmful to your health.

***You have the right*** to contact the office of the Alberta Mental Health Patient Advocate regarding any questions or concerns that you might have with respect to your rights or care while in hospital.

***For additional information, call the Alberta Mental Health Patient Advocate Office at:***

- Edmonton: (780) 422-1812
- Other centres in Alberta:
  Dial 310-0000-422-1812
  (no long distance charges apply)

## *MENTAL HEALTH ACT* PART 6 — Mental Health Patient Advocate

### Definition

44. In this Part, "Patient Advocate" means the Mental Health Patient Advocate appointed under Section 45.

### Patient Advocate

45(1) The Lieutenant Governor in Council shall appoint a Mental Health Patient Advocate, who shall investigate complaints from or relating to formal patients and exercise any other powers and perform any other duties that are prescribed in the regulations.

(2) The Lieutenant Governor in Council may make regulations

(a) respecting the powers and duties of the Patient Advocate;

(b) requiring boards to make available any information referred to in the regulations for the purpose of an investigation by the Patient Advocate.

### Employees and advisors

46(1) In accordance with the *Public Service Act*, there may be appointed any employees required to assist the Patient Advocate in performing the Patient Advocate's duties under this Act.

(2) The Patient Advocate may engage the services of lawyers, psychiatrists or other persons having special knowledge in connection with the Patient Advocate's duties under this Act.

### Annual Report

47(1) As soon as possible after the end of each year, the Patient Advocate shall prepare and submit to the Minister a report summarizing the Patient Advocate's activities in that year.

(2) On receiving a report under subsection (1), the Minister shall lay a copy of the report before the Legislative Assembly if it is then sitting, and if not, within 15 days after the commencement of the next sitting.

**Definitions**

1. In this Regulation,

(a)"Act" means the *Mental Health Act;*

(b) "formal patient" includes a person who has been a formal patient;

(c) "Patient Advocate" means the Mental Health Patient Advocate appointed under the Act.

**Delegation**

2. The Patient Advocate may in writing delegate to any person holding any office under the Patient Advocate any power or duty conferred or imposed on the Patient Advocate under the Act or the regulation under the Act, except the power of delegation in this section and the power or duty to make any report under the Act or regulations.

**Power to act on a complaint relating to a formal patient**

3. (1) On receipt of a complaint from or relating to a formal patient, the Patient Advocate

(a) shall notify the board of the facility in which the formal patient is detained of the nature of the complaint,

(b) shall notify the formal patient, in writing, that a complaint has been received, of the nature of the complaint and of any investigation arising from the complaint,

(c) if a person other than a formal patient is named in the complaint, shall notify that person of any investigation arising from the complaint, and

(d) shall make any contact with the formal patient and conduct any investigation of the complaint that the Patient Advocate considers necessary.

(2) If a complaint relates to a formal patient who has been transferred from one facility to another, the notice under subsection (1)(a) must be provided to the boards of both facilities.

(3) A formal patient and a person who has received notice of an investigation under subsection (1)(c) has the right to make representations to the Patient Advocate relating to the complaint.

(4) The Patient Advocate may investigate a complaint only as it relates to the period during which the person who is the subject of the complaint was subject to 2 admission certificates or 2 renewal certificates.

(5) On receipt of a complaint, the Patient Advocate shall provide to the formal patient and to the complainant, as far as is reasonable, information respecting the following:

(a) the rights of the formal patient under the Act;

(b) how the formal patient may obtain legal counsel;

(c) how to make an application to the review panel;

(d) how to commence an appeal to the Court of Queen's Bench.

**Power to initiate an investigation without a complaint**

4. The Patient Advocate may, without receiving a complaint, initiate and conduct an investigation into

(a) any procedure of a facility relating to the admission of a person detained in the facility pursuant to the Act, and

(b) any procedure of a facility

(i) for informing a formal patient of the patient's rights, or

(ii) for providing information as required by the Act to guardians, nearest relatives or designates of a formal patient.

**Procedures**

5. (1) The Patient Advocate

(a) shall maintain a record relating to every complaint and every investigation under this Regulation,

(b) may make any inquiries the Patient Advocate considers necessary to conduct an investigation,

(c) shall notify the board of a facility of the Patient Advocate's intention to contact a patient or a formal patient of the facility, and

(d) shall notify the board of a facility of the Patient Advocate's intention to carry out an investigation that relates to the facility, whether the investigation arises pursuant to section 3 or 4.

(2) When the board is notified of the Patient Advocate's intention to contact a patient or a formal patient of the facility in accordance with subsection 5(1)(c), the board shall grant the Patient Advocate access at all reasonable times.

(3) The Patient Advocate is not required to hold a hearing.

(4) If the Patient Advocate requests in writing from the board of a facility

(a) any policy or directive of the facility,

(b) any medical or other record or any information, file or other document relating to a patient or a formal patient who is the subject of an investigation under section 3 or 4, or

(c) any other information, file or document relating to an investigation under section 3 or 4, the board shall, within a reasonable time after receipt of the request, provide access to the materials requested.

(5) If the Patient Advocate so requests, the board shall provide a copy of any materials requested under subsection (4).

### Disclosure

6. The Patient Advocate shall not disclose information obtained in the course of an investigation except as required by law or in the performance of the Patient Advocate's duties under the Act or this Regulation.

### Report

7. (1) On completion of an investigation, the Patient Advocate shall prepare and send to the board a copy of the report of the investigation.

(2) A report that contains recommendations must state the reasons for the recommendations.

(3) If a report is sent to the board under subsection (1) and within a reasonable time after the report is sent to the board the Patient Advocate is of the opinion that the board has not taken appropriate action on any recommendation, the Patient Advocate shall send a copy of the report and the board's response, if any, to the Minister.

### Frivolous complaint

8. The Patient Advocate may refuse to investigate or cease to investigate a complaint if in the Patient Advocate's opinion

a) the subject-matter of the complaint is trivial,

(b) the complaint is frivolous or vexatious, or

(c) having regard to all of the circumstances, no investigation is necessary.

### Notice to complainant

9. The Patient Advocate

(a) shall inform a formal patient of the disposition of any complaint that relates to the formal patient, and

(b) may inform a complainant of the disposition of any complaint initiated by the complainant.

### Repeal

10. *The Patient Advocate Regulation* (AR 310/89) is repealed.

### Expiry

11. For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on March 31, 2014.

Alberta Mental Health
Patient Advocate Office

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